

110TH CONGRESS  
1ST SESSION

# H. R. 3133

To authorize the Secretary of the Treasury to make grants to States, units of general local government, and nonprofit organizations for counseling and education programs for the prevention of predatory lending and to establish a toll-free telephone number for complaints regarding predatory lending, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 23, 2007

Mr. SCOTT of Georgia (for himself and Mr. SHAYS) introduced the following bill; which was referred to the Committee on Financial Services

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## A BILL

To authorize the Secretary of the Treasury to make grants to States, units of general local government, and nonprofit organizations for counseling and education programs for the prevention of predatory lending and to establish a toll-free telephone number for complaints regarding predatory lending, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Financial Literacy for  
5       Homeowners Act”.

1 **SEC. 2. FINDINGS.**

2 The Congress finds the following:

3 (1) While expanded access to credit from both  
4 prime and subprime lenders has contributed to the  
5 highest homeownership rates in the Nation's history,  
6 there is growing evidence that some lenders are en-  
7 gaging in predatory lending practices—excessive  
8 front-end fees, single-premium credit life insurance,  
9 and exorbitant prepayment penalties—that make  
10 homeownership much more costly for families that  
11 can least afford it.

12 (2) Borrowers with fair to good credit ratings  
13 may be able to obtain loans in the “prime” mortgage  
14 market, with the lowest interest rates and costs.

15 (3) Borrowers with blemished credit histories  
16 obtain mortgage loans in the “subprime” mortgage  
17 market, with higher interest rates and loan fees than  
18 are obtainable in the prime market. Some subprime  
19 lenders have been making loans on terms that are  
20 regarded as “predatory”.

21 (4) Predatory lending involves home mortgages,  
22 mortgage refinancing, home equity loans, and home  
23 repair loans with unjustifiably high interest rates,  
24 excessive fees, balloon payments, prepayment pen-  
25 alties, and the imposition of other unreasonable, and  
26 sometimes fraudulent, terms.

1           (5) Predatory loans are said to have grown rap-  
2 idly in minority neighborhoods, often stripping away  
3 wealth that may have taken owners decades or a  
4 lifetime to accumulate.

5           (6) Some communities that have lacked access  
6 to traditional institutions were being victimized by  
7 second mortgage lenders, home improvement con-  
8 tractors, and finance companies who peddled high  
9 interest rate home equity loans with high loan fees  
10 to cash-poor homeowners. Borrowers, who may not  
11 have fully understood the terms of the loans, and  
12 who may not have been offered adequate disclosures  
13 of the loan terms, often have struggled to meet over-  
14 whelming mortgage payments and too often ulti-  
15 mately lost their homes through foreclosure.

16          (7) A joint report by the Department of Hous-  
17 ing and Urban Development and the Department of  
18 the Treasury, issued June 21, 2000, entitled “Curb-  
19 ing Predatory Home Mortgage Lending”, urged the  
20 Congress to adopt legislation that would restrict  
21 abusive terms and conditions on high-cost loans,  
22 prohibit harmful sales practices in mortgage mar-  
23 kets, improve consumer literacy and disclosures, pro-  
24 hibit government-sponsored enterprises from pur-  
25 chasing loans with predatory features, and establish

1 predatory lending as a factor in evaluations for the  
2 Community Reinvestment Act of 1977.

3 (8) The joint report proposed a four-point plan  
4 to address predatory lending practices, which in-  
5 cluded improving consumer literacy and disclosures  
6 by requiring lenders to recommend that applicants  
7 for high-cost loans avail themselves of home mort-  
8 gage counseling, to disclose credit scores to all bor-  
9 rowers upon request, and to give borrowers more  
10 timely and more accurate information on loan costs  
11 and terms.

12 (9) A number of government agencies have be-  
13 come involved in addressing various aspects of the  
14 predatory lending issue in an attempt to reduce the  
15 number of lenders that use high-pressure tele-  
16 marketing sales techniques and mislead borrowers  
17 about increases in interest rates and monthly pay-  
18 ments on adjustable rate mortgages.

19 (10) Predatory lending threatens to undo the  
20 work of many nonprofit organizations that have  
21 worked with lenders and local governments to im-  
22 prove distressed neighborhoods. More needs to be  
23 done to assist borrowers who already have predatory  
24 loans, to educate consumers about the dangers and  
25 pitfalls of entering into a home loan, and to refer

1 consumers to appropriate governmental agencies or  
2 consumer protection organizations for assistance.

3 **SEC. 3. GRANT PROGRAM FOR EDUCATION AND COUN-**  
4 **SELING REGARDING PREDATORY LENDING.**

5 (a) IN GENERAL.—The Secretary of the Treasury  
6 may make grants under this section to States, units of  
7 general local government, and nonprofit organizations,  
8 which shall be used only for costs of carrying out eligible  
9 anti-predatory lending activities under subsection (b).

10 (b) ELIGIBLE ANTI-PREDATORY LENDING ACTIVI-  
11 TIES.—Amounts from a grant under this section may be  
12 used only for carrying out the following activities:

13 (1) EDUCATION PROGRAMS.—For education  
14 programs to inform and educate consumers, particu-  
15 larly those most vulnerable to being taken advantage  
16 of by predatory and unscrupulous lending practices  
17 relating to home loans (such as low-income bor-  
18 rowers and senior citizens), regarding home mort-  
19 gages, mortgage refinancing, home equity loans, and  
20 home repair loans with unjustifiably high interest  
21 rates, excessive fees, balloon payments, prepayment  
22 penalties, and the imposition of other unreasonable,  
23 and sometimes fraudulent, terms.

24 (2) COUNSELING PROGRAMS.—For programs,  
25 provided only by organizations certified by the Sec-

1       retary as competent to provide homeownership coun-  
2       seling, that counsel homeowners and prospective  
3       homeowners regarding predatory and unscrupulous  
4       lending practices relating to home loans.

5           (3) REFERRAL SERVICES.—For services that  
6       provide referrals, for homeowners and prospective  
7       homeowners—

8           (A) to education and counseling programs  
9       described in paragraphs (1) and (2); or

10          (B) to appropriate agencies or authorities  
11       responsible for handling consumer complaints,  
12       allegations, or requests for assistance regarding  
13       predatory and unscrupulous lending practices  
14       relating to home loans or for investigating the  
15       circumstances surrounding home loans for pos-  
16       sible violations of law.

17       (c) ELIGIBILITY AND APPLICATION.—To be eligible  
18       for a grant under this section, a State, unit of general  
19       local government, or nonprofit organization shall submit  
20       to the Secretary an application for a grant in such form  
21       and including such information as the Secretary shall re-  
22       quire, which shall include such information as the Sec-  
23       retary considers appropriate to ensure that the grant  
24       amounts are used for activities eligible under subsection  
25       (b).

1 (d) MAXIMUM GRANT AMOUNT.—The maximum  
2 amount of grant funds that may be provided under this  
3 section to any single grantee for any single fiscal year shall  
4 be \$1,000,000.

5 (e) SELECTION OF APPLICANTS.—The Secretary  
6 shall provide for States, units of general local government,  
7 and nonprofit organizations to submit applications for  
8 grants under this section. The Secretary shall select appli-  
9 cations to receive such grants according to selection cri-  
10 teria, which the Secretary shall establish.

11 **SEC. 4. TOLL-FREE TELEPHONE NUMBER FOR PREDATORY**  
12 **LENDING COMPLAINTS.**

13 The Secretary shall, using any amounts reserved  
14 under section 7(1), provide for the establishment, oper-  
15 ation, and publication of a nationwide toll-free telephone  
16 number to receive consumer complaints regarding preda-  
17 tory and unscrupulous lending practices relating to home  
18 loans, provide information about predatory lending, refer  
19 borrowers who already have predatory loans to the appro-  
20 priate governmental agencies or consumer protection orga-  
21 nizations for assistance, and coordinate between existing  
22 State and nonprofit community organizations to create a  
23 resource database of information for consumers. Such toll-  
24 free telephone line shall provide for receipt of such con-  
25 sumer complaints and provision of such information at all

1 times only through an actual person and not by pre-re-  
2 corded or recorded means.

3 **SEC. 5. PREDATORY LENDING ADVISORY COUNCIL.**

4 (a) ESTABLISHMENT.—There is established in the  
5 Department of the Treasury a Predatory Lending Advi-  
6 sory Council (in this section referred to as the “Council”)  
7 to advise the Secretary on policies and issues relating to  
8 predatory and unscrupulous lending practices relating to  
9 home loans.

10 (b) MEMBERSHIP.—The Council shall be composed of  
11 13 members appointed by the Secretary, who shall in-  
12 clude—

13 (1) 4 members who are representatives of com-  
14 munity-based organizations that work with con-  
15 sumers, lenders, and State and local governments to  
16 improve distressed neighborhoods, assist borrowers  
17 who already have predatory loans, educate con-  
18 sumers about the dangers and pitfalls of entering  
19 into a home loan, and refer consumers to appro-  
20 priate governmental agencies or consumer protection  
21 organizations for assistance;

22 (2) 3 members who are officials of State agen-  
23 cies or offices for consumer affairs or consumer pro-  
24 tection;



1           (3) 3 members who are private homeowners  
2           who are familiar with home mortgages, mortgage re-  
3           financing, home equity loans, and home repair loans;  
4           and

5           (4) 3 members who are representatives of the  
6           private real estate industry, such as realtors, mort-  
7           gage brokers, and bankers.

8           (c) TERMS AND VACANCIES.—Members of the Coun-  
9           cil shall serve terms of two years, except that, of the initial  
10          members appointed, half shall serve terms of one year and  
11          half shall serve terms of two years. A vacancy in the Coun-  
12          cil shall be filled in the manner in which the original ap-  
13          pointment was made.

14          (d) TRAVEL EXPENSES.—Members of the Council  
15          shall serve without compensation but shall receive travel  
16          expenses, including per diem in lieu of subsistence, in ac-  
17          cordance with sections 5702 and 5703 of title 5, United  
18          States Code.

19          (e) CHAIRPERSON.—The Secretary shall designate a  
20          chairperson of the Council at the time of appointment.

21          (f) MEETINGS AND HEARINGS.—The Council shall  
22          meet upon the call of the chairperson, except that the  
23          council shall meet not fewer than 3 times per year. The  
24          Council shall have the authority, when a majority of the  
25          members deem necessary, to hold public hearings and to

1 take testimony and receive evidence from individuals and  
2 organizations.

3 (g) ADVISORY FUNCTIONS.—The Council shall pro-  
4 vide advice to the Secretary regarding—

5 (1) the grant program under section 3, includ-  
6 ing advice regarding criteria for selection of applica-  
7 tions to receive grant amounts;

8 (2) the establishment, operation, and publica-  
9 tion of the toll-free telephone number under section  
10 4;

11 (3) coordination of activities of the Secretary  
12 regarding prevention of predatory and unscrupulous  
13 lending practices relating to home loans with such  
14 activities of lending institutions; and

15 (4) any other matters regarding predatory and  
16 unscrupulous lending practices relating to home  
17 loans that the Secretary considers appropriate.

18 (h) STUDY OF DEFAULTS AND FORECLOSURES.—  
19 The Council shall conduct an extensive study of the root  
20 causes of default and foreclosure of home loans, using as  
21 much empirical data as are available. The Council shall  
22 submit a report to the Secretary and the Congress, not  
23 later than 12 months after the full membership of the  
24 Council is first appointed, regarding the results of the  
25 study, which shall include recommendations for consumer

1 protection legislation regarding predatory and unscrupu-  
2 lous lending practices relating to home loans.

3 **SEC. 6. DEFINITIONS.**

4 For purposes of this Act, the following definitions  
5 shall apply:

6 (1) HOME LOAN.—The term “home loan”  
7 means a loan or agreement to extend credit made to  
8 a natural person, which loan is secured by a deed to  
9 secure debt, security deed, mortgage, security instru-  
10 ment, deed of trust, or other document representing  
11 a security interest or lien upon any interest in one-  
12 to four-family residential property or a manufac-  
13 tured home, regardless of where made, including the  
14 renewal or refinancing of any such loan. Such term  
15 includes a home equity line of credit or home im-  
16 provement loan or other similar agreement.

17 (2) NONPROFIT ORGANIZATION.—The term  
18 “nonprofit organization” has the meaning given  
19 such term in section 104(5) of the Cranston-Gon-  
20 zalez National Affordable Housing Act (42 U.S.C.  
21 12704(5)), except that subparagraph (D) of such  
22 section shall not apply for purposes of this Act.

23 (3) PREDATORY OR UNSCRUPULOUS LENDING  
24 PRACTICE.—The term “predatory or unscrupulous  
25 lending practice” includes—

1 (A) making any loan that—

2 (i) is solely based on the borrower’s  
3 home equity;

4 (ii) is made without regard to the bor-  
5 rower’s ability to repay the obligation; and

6 (iii) is unaffordable to the borrower,  
7 as may be evidenced by a failure to fully  
8 understand the terms of the loans, a fail-  
9 ure to offer adequate disclosures of the  
10 loan terms, a difficulty in meeting over-  
11 whelming mortgage payments, loss of a  
12 home through foreclosure, or otherwise;

13 (B) inducing a borrower to refinance a  
14 loan repeatedly and charging additional points  
15 and fees, even though refinancing may not be in  
16 the borrower’s interest; and

17 (C) engaging in fraud or deception to con-  
18 ceal the true nature of the loan obligation from  
19 an unsuspecting or unsophisticated borrower.

20 (4) SECRETARY.—The term “Secretary” means  
21 the Secretary of the Treasury.

22 (5) STATE.—The term “State” means each of  
23 the several States, the Commonwealth of Puerto  
24 Rico, the District of Columbia, the Commonwealth  
25 of the Northern Mariana Islands, Guam, the Virgin

1 Islands, American Samoa, the Trust Territories of  
2 the Pacific, or any other possession of the United  
3 States.

4 (6) UNIT OF GENERAL LOCAL GOVERNMENT.—

5 The term “unit of general local government” means  
6 any city, town, township, parish, village, or other  
7 general purpose political subdivision of a State.

8 **SEC. 7. AUTHORIZATION OF APPROPRIATIONS.**

9 There is authorized to be appropriated for carrying  
10 out this Act \$55,000,000 for each of fiscal years 2008  
11 through 2012, of which—

12 (1) not more than \$2,000,000 in each such fis-  
13 cal year shall be for carrying out section 4; and

14 (2) not more than \$5,000,000 in each such fis-  
15 cal year shall be for carrying out section 5.

16 **SEC. 8. REGULATIONS.**

17 The Secretary may issue any regulations necessary  
18 to carry out this Act.

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